

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BROADCAST MUSIC, INC.; EVERGREEN )  
COPYRIGHT ACQUISITIONS/AUDIGRAM, )  
LLC d/b/a AUDIGRAM SONGS, INC.; SONGS )  
OF UNIVERSAL, INC.; EMI VIRGIN SONGS, )  
INC. d/b/a EMI LONGITUDE MUSIC; )  
DYNATONE PUBLISHING COMPANY; STONE )  
DIAMOND MUSIC CORP.; MOEBETOBLAME )  
MUSIC; CROOKED CHIMNEY MUSIC INC.; )  
and SONY/ATV SONGS LLC, )

Plaintiffs, )

v. )

CIVIL ACTION NO. )

MAS WEST CHESTER, LLC d/b/a MAS )  
MEXICALI CANTINA; JOHN CAULFIELD, )  
PATRICK MCBRIDE, and CHRISTOPHER C. )  
HAYDEN, each individually, )

Defendants. )

VERIFIED COMPLAINT

Plaintiffs, by their attorneys, for their Complaint against Defendants, allege as follows (on knowledge as to Plaintiffs; otherwise on information and belief):

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 et seq. (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

THE PARTIES

3. Plaintiff Broadcast Music, Inc. ("BMI") is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public performance rights in approximately 7.5 million copyrighted musical compositions (the "BMI Repertoire"), including those which are alleged herein to have been infringed.

4. The Plaintiffs other than BMI are the owners of the copyrights in the musical compositions, which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Plaintiff Evergreen Copyright Acquisitions/Audigram, LLC is a limited liability company d/b/a Audigram Songs, Inc. This Plaintiff is the copyright owner of at least one of the songs in this matter.

6. Plaintiff Songs of Universal, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

7. Plaintiff EMI Virgin Songs, Inc. is a corporation d/b/a EMI Longitude Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

8. Plaintiff Dynatone Publishing Company is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

9. Plaintiff Stone Diamond Music Corp. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

10. Plaintiff Moebetoblame Music is a partnership owned by Michael Balzary, John Anthony Frusciante, Anthony Kiedis and Chad Gaylord Smith. This Plaintiff is the copyright owner of at least one of the songs in this matter.

11. Plaintiff Songs of Universal, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

12. Plaintiff Crooked Chimney Music Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

13. Plaintiff Sony/ATV Songs LLC is a limited liability company. This Plaintiff is the copyright owner of at least one of the songs in this matter.

14. Defendant Mas West Chester, LLC is a limited liability company organized and existing under the laws of the Commonwealth of Pennsylvania, which operates, maintains and controls an establishment known as Mas Mexicali Cantina, located at 102 East Market Street, West Chester, Pennsylvania 19382-3153, in this district (the "Establishment").

15. In connection with the operation of the Establishment, Defendant Mas West Chester, LLC publicly performs musical compositions and/or causes musical compositions to be publicly performed.

16. Defendant Mas West Chester, LLC has a direct financial interest in the Establishment.

17. Defendant John Caulfield is a member of Defendant Mas West Chester, LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

18. Defendant John Caulfield has the right and ability to supervise the activities of Defendant Mas West Chester, LLC and a direct financial interest in that limited liability company and the Establishment.

19. Defendant Patrick McBride is a member of Defendant Mas West Chester, LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

20. Defendant Patrick McBride has the right and ability to supervise the activities of Defendant Mas West Chester, LLC and a direct financial interest in that limited liability company and the Establishment.

21. Defendant Christopher C. Hayden is a manager of Defendant Mas West Chester, LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

22. Defendant Christopher C. Hayden has the right and ability to supervise the activities of Defendant Mas West Chester, LLC and a direct financial interest in that limited liability company and the Establishment.

#### CLAIMS OF COPYRIGHT INFRINGEMENT

23. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 22.

24. Plaintiffs allege seven (7) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient

administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

25. Annexed to this Complaint as a schedule (the “Schedule”) and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the seven (7) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to “Lines” are lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the copyright registration number(s) for the musical composition; Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment where the infringement occurred.

26. For each musical composition identified on the Schedule, the person(s) named on Line 3 was the creator of that musical composition.

27. For each work identified on the Schedule, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

28. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the

Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

29. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

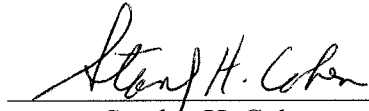
30. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

- (I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;
- (II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);
- (III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and

(IV) Plaintiffs have such other and further relief as is just and equitable.

June 26, 2013

  
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Stanley H. Cohen  
(I.D. No. 12095)  
Caesar, Rivise, Bernstein,  
Cohen & Pokotilow, Ltd.  
12<sup>th</sup> Floor, Seven Penn Center  
1635 Market Street  
Philadelphia, PA 19103-2212  
Telephone: 215-567-2010  
Facsimile: 215-751-1142  
e-mail: [scohen@crbcp.com](mailto:scohen@crbcp.com)

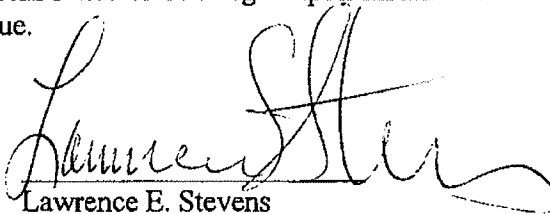
Attorney for Plaintiffs

**VERIFICATION**


STATE OF TENNESSEE     )  
  ) ss.:  
COUNTY OF DAVIDSON    )

Lawrence E. Stevens, being duly sworn, deposes and says:

I am an Assistant Vice President, General Licensing, for Plaintiff Broadcast Music, Inc. I have read the foregoing Verified Complaint and know the contents thereof; the same is true to my knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true.

  
Lawrence E. Stevens

Sworn to before me this  
19 day of June 2013.

  
Notary Public



MY COMMISSION EXPIRES  
July 6, 2015



*Schedule*

Line 1	Claim No.	1
Line 2	Musical Composition	Cocaine
Line 3	Writer(s)	J. J. Cale
Line 4	Publisher Plaintiff(s)	Evergreen Copyright Acquisitions/Audigram, LLC d/b/a Audigram Songs, Inc.
Line 5	Date(s) of Registration	11/26/75
Line 6	Registration No(s).	EP 345663
Line 7	Date(s) of Infringement	05/04/2013
Line 8	Place of Infringement	Mas Mexicali Cantina

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Line 1	Claim No.	2
Line 2	Musical Composition	Free Bird
Line 3	Writer(s)	Allen Collins; Ron Van Zant
Line 4	Publisher Plaintiff(s)	Songs of Universal, Inc.; EMI Virgin Songs, Inc. d/b/a EMI Longitude Music
Line 5	Date(s) of Registration	12/5/73 7/14/75
Line 6	Registration No(s).	Eu 450840 Ep 340382
Line 7	Date(s) of Infringement	05/04/2013
Line 8	Place of Infringement	Mas Mexicali Cantina

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Line 1	Claim No.	3
Line 2	Musical Composition	Get Up I Feel Like Being Like A Sex Machine AKA Get Up I Feel Like Being A Sex Machine
Line 3	Writer(s)	James Brown; Bobby Byrd; Ronald Lenhoff
Line 4	Publisher Plaintiff(s)	Dynatone Publishing Company
Line 5	Date(s) of Registration	7/9/70 3/13/73
Line 6	Registration No(s).	Eu 198587 Ep 310534
Line 7	Date(s) of Infringement	10/22/2011
Line 8	Place of Infringement	Mas Mexicali Cantina

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Line 1	Claim No.	4
Line 2	Musical Composition	Papa Was A Rollin' Stone a/k/a Papa Was A Rolling Stone
Line 3	Writer(s)	Norman Whitfield; Barrett Strong
Line 4	Publisher Plaintiff(s)	Stone Diamond Music Corp.
Line 5	Date(s) of Registration	5/12/72
Line 6	Registration No(s).	Ep 299072
Line 7	Date(s) of Infringement	10/22/2011
Line 8	Place of Infringement	Mas Mexicali Cantina

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Line 1	Claim No.	5
Line 2	Musical Composition	Other Side a/k/a Otherside
Line 3	Writer(s)	Michael Balzary, John Frusciante, Anthony Kiedis, Chad Smith
Line 4	Publisher Plaintiff(s)	Michael Balzary, John Anthony Frusciante, Anthony Kiedis and Chad Gaylord Smith, a partnership d/b/a Moebetoblame Music
Line 5	Date(s) of Registration	3/30/99
Line 6	Registration No(s).	PAu 2-390-367
Line 7	Date(s) of Infringement	05/04/2013
Line 8	Place of Infringement	Mas Mexicali Cantina

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Line 1	Claim No.	6
Line 2	Musical Composition	All For You
Line 3	Writer(s)	Andrew Copeland, Ryan Newell, Jeff Beres, Mark Trojanowski, Ken Block
Line 4	Publisher Plaintiff(s)	Songs of Universal, Inc.; Crooked Chimney Music Inc.
Line 5	Date(s) of Registration	10/01/98
Line 6	Registration No(s).	PA 916-885
Line 7	Date(s) of Infringement	05/03/2013
Line 8	Place of Infringement	Mas Mexicali Cantina

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Line 1	Claim No.	7
Line 2	Musical Composition	Wonderwall
Line 3	Writer(s)	Noel Gallagher
Line 4	Publisher Plaintiff(s)	Sony/ATV Songs LLC
Line 5	Date(s) of Registration	11/20/95
Line 6	Registration No(s).	PA 782-736
Line 7	Date(s) of Infringement	05/04/2013
Line 8	Place of Infringement	Mas Mexicali Cantina

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